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EAST TENNESSEE IN COLONIAL DAYS.

II.

After the close of the revolutionary war the chaotic nature of the Federal Government and the exhausted condition of the State treasuries made not only the perpetuation of the Confederacy of the thirteen States extremely doubtful, but also threw the distant settlements on their own resources in such a manner as to alienate them from their allegiance and produce among them an individualistic and separatist spirit fraught with danger to the extension of the national sovereignty over them. Such was the case with the settlements in Tennessee and the desire for an entirely independent government was more intense here than in any other part of the West.

There had never been any natural connection between the western counties and the State of North Carolina. The difficulty of communication across the high mountains prevented the forming of a close tie between that commonwealth and its frontier settlements. Added to this, the majority of the inhabitants of those districts had come from Virginia and had little patriotism for their adopted State.

The government of North Carolina had also grown very tired of the expense of the border Indian wars and accused the backwoodsmen of provoking these in order to keep their militia in the field and thus draw a considerable sum from the State treasury. The taxes received from the western counties did not nearly meet the expense they caused the State, so the dissatisfaction between the eastern and western people was rapidly growing, and separation became only a question of time.

All the States had become heavily burdened with debt during the revolution, therefore, when Congress proposed that they should cede to the government their western lands in

order that the proceeds from the sale of these might go to liquidate their indebtedness, North Carolina very promptly acted on the suggestion, and in April, 1784, ceded the three western counties to the general government, with the proviso that if the cession should not be accepted within two years the territory should revert to the State. The latter stipulation proved of small satisfaction to the detached counties, however, as they were practically left dependent on themselves without any form of government or court of law to restrain the lawlessness of the period or prevent a condition of complete anarchy.

It is natural that these abandoned counties should have been filled with indignation at such treatment from their unfeeling mother State. The situation, however, that confronted them was a very serious one, and demanded immediate action. Measures were at once taken to establish some form of government for mutual advantage and protection. It was agreed that each "captain's company" in the counties should choose two delegates, who should assemble as committees in their respective counties. These committees met and recommended the election of deputies to a convention to be held at Jonesboro. This body assembled on August 23, 1784, and after they had considered the position and the condition in which the action of North Carolina had left them, a member arose and referring to the Declaration of Independence, a copy of which he held in his hand, asserted that the reasons there given for declaring the colonies free and independent applied equally as well to the counties of Washington, Greene, and Sullivan. A resolution to this effect was carried by a vote of 28 to 15, and the result announced to the assembled crowd on the outside.

This was the first step towards establishing what afterwards became the State of Franklin. It may have been an act of rebellion, treason, or secession, but the people did not so look on it at that time. The exigency of the occasion demanded such action. The parent State had with-

drawn its protection and left the orphan settlement without any semblance of law or government. It is perfectly natural that an Anglo-Saxon community, under such circumstances, should have formulated its own law and set up its own government. If it had not done so it would have been the first instance of the kind in the history of the race. The conduct of North Carolina, considered in any light, was unwarranted and inexcusable and can only be accounted for by reference to the unsettled condition of all the States and of the general government in that troublous period. To provide for the establishment of a permanent government, a manifesto was at once issued calling a convention for the formation of a constitution and giving the following as some of the reasons for desiring a separate State :

The seat of government being among ourselves would inevitably tend not only to keep a circulating medium in gold and silver among us, but also draw it from many individuals living in other States who claim large quantities of land that would lie in the bounds of the new State, and added to the foregoing reasons are the many schemes as a body we could execute to draw it among us, and the sums which many travelling out of curiosity and men in public houses would expend among us.

Thus we see that economic heresies and the boom scheme tendencies are not a development solely of recent periods. This prospectus, with a few words changed, could easily be found duplicated in the advertisements of a few years since.

Previous to the assembling of the convention North Carolina had repented of her rash conduct and repealed the Cession act before Congress had had time either to accept or reject the territory offered. But the new State had now progressed too far and its feelings were too much wounded for it to return willingly to the old allegiance, so the organization of the new government proceeded. In vain was Sevier offered a brigadier general's commission and pacificatory messages sent the western counties. The convention assembled, consisting of five delegates from each county, among whom we find such names as Sevier, Cocke,

Tipton, Houston, Long, Reese, Kennedy, Newman and Roddy. A constitution was adopted subject to ratification at another convention to be held at Greeneville, Nov. 14, 1784. A legislature was, however, immediately elected and John Sevier was chosen by it to be the first Governor. Landon Carter was elected Speaker of the Senate, Wm. Cage Speaker of the House, and David Campbell Judge of the Superior Court.

A treaty was made with the Indians by the terms of which the ridge dividing the waters of the Little River and the Little Tennessee was made the boundary between the two peoples.

The persistence in the formation of this government created surprise and consternation among the authorities of North Carolina. Governor Martin, after in vain remonstrating with Governor Sevier, declared the counties taking part in the movement to be in revolt and warned all good citizens to return to their allegiance to their old State. A large majority, however, remained in favor of the new commonwealth.

The spirit of the Franks even extended into southwest Virginia, and Washington county of that State memorialized Congress asking permission to set up a separate State extending over an immense territory, comprising all of what is now southwest Virginia, southern West Virginia, southeast Kentucky, east and middle Tennessee and northern Alabama. Although this magnificent project received little support, it yet alarmed Patrick Henry, then Governor of Virginia, to such an extent that he issued a proclamation against these would-be secessionists and warned them against any such action as they contemplated. The scheme of the Virginia separatists very soon fell through, but the State of Franklin continued constantly to gain strength.

The Constitutional Convention met at Greeneville, as appointed, and after a very spirited debate over a draft of a constitution, submitted by the Reverend Samuel Houston, rejected that and substituted the one then in force in North

Carolina with a few amendments. This Houston Constitution, generally known as the "Franklin Constitution," although defeated, is interesting to us from the fact that it embodied the sentiments of a very strong minority of the delegates, and thus goes far to show the character of the people of the settlements. It was a much more elaborate instrument than would be expected of a backwoods people, and shows that considerable progress had already been made towards something of the civilization of the coast. The intense suspicion of the legislative power is exhibited by the provision that laws must be passed by two successive legislatures before they shall be operative, and the objection and prejudice against law and lawyers is also evident in the clause making members of that profession ineligible to office and in another providing for a system of arbitration to settle all disputes and avoid legal actions. The hold which the Presbyterian Scotch-Irish had on the community is seen in the religious test for office which required a subscription to the doctrine of the Trinity. This constitution, as a whole, would have been almost as impracticable an organic law as Locke's Grand Model and the unlearned but practical mountain men very properly refused to accept anything so foreign to their customs and history. John Tipton, however, was one of the strongest supporters of the instrument and its defeat, together with other reasons, gave him bitter umbrage and made him thereafter the implacable enemy of the new State and of its first Governor. In place of the name of Frankland, as provided for in the defeated constitution, that of Franklin, after the venerable philosopher, was adopted. From now on, opposition to the new government began to assume definite shape. The bitter personal enmity between Tipton and Governor Sevier led the former to use every means to induce the people away from Franklin and to renew their allegiance to North Carolina. In 1785 this had developed sufficient strength to cause an election in Washington County for members to the North Carolina Legislature, and Tipton was elected

Senator. Haywood gives the following description of the anomalous condition of affairs existing at this period :

In the early part of the year 1786 was presented the strange spectacle of two empires exercised at one and the same time over one and the same people. The differences of opinion in the State of Franklin between those who adhered to the government of North Carolina and those who were the friends of the new government became every day more acrimonious. Col. Tipton openly refused obedience to the new government. There arose a deadly hatred between him and Governor Sevier, and each endeavored by all the means in his power to strengthen his party against the other.

Courts were held under both authorities, and as the processes were served in the same territory, encounters were sure to take place. Tipton broke up one court, ejected the judge, and took away the papers. Sevier's party retaliated in kind upon the court held under North Carolina's authority. Taxes were laid by both governments and collected by neither. Finally so obstructed were the processes of law that Gen. Evan Shelby was selected by both parties to unravel the difficulty. He decided that the courts of both States in the territory should confine themselves to criminal cases and a few specified civil actions, and that taxes could be paid to either State. Thus a coördinate jurisdiction was established.

Political meetings were frequent, in which partisans vied with each other in cries of "Hurrah for the State of North Carolina," or "Hurrah for the State of Franklin." And yet, strange to say, until the very culmination of this situation there was no bloodshed and little rioting or lawless conduct. The State of North Carolina, though urged to do so, uniformly pursued the policy of attempting to coax back the erring counties by pacificatory concessions, and what might have been a formidable civil war was thus averted. The repeal of the Cession act and the assurance of the Governor and Legislature of North Carolina that at the proper time they would permit a separate State to be formed, won over the most ardent of the Franklin adherents. "And this argument," says Ramsey, "inflicted a vital stab upon the new government which, within the next year, caused its dissolution."

The end of Franklin now rapidly approached. Sevier and his despairing adherents proposed first one scheme and then another to win back their former followers. The encroachers on the Indians' territory were guaranteed a title. A plan was proposed, with the aid of Georgia, to colonize the great bend of the Tennessee at Mussel Shoals. Cæsar Augustus Elholm, of Pulaski's Legion, won the sympathy of Georgia to this project, but it ultimately fell through. It is even hinted that during the deliberations over the treaty proposed by Jay, which contemplated the surrendering of the right to navigate the Mississippi for twenty years, Sevier was involved in an intrigue which contemplated a descent on the Spanish posts on the Mississippi and Gulf.

This was not unlike the man, and although an investigation, ordered by Congress, did not develop any proof of such intention, there is some reason to believe that the movement was contemplated.

The whole southwest was ready to take up arms for the retention of the right to navigate the Mississippi, and there is no doubt but that this attitude prevented the ratification of the obnoxious treaty. Finally, in 1787, the new State was reduced to the last extremity. In Ramsey's words :

Vestige after vestige of Franklin was obliterated. Its judiciary was gone. Its Legislature reduced to a skeleton. Its council effete, defunct, powerless, its military disorganized, if not discordant, and its masses confused and distracted, with no concert and unanimity among themselves.

It but remained for its most inveterate enemy to strike the blow which was to start it toppling to its destruction. Tipton caused to be issued a *feri facias* against Sevier's estate during his absence and seized a few slaves to satisfy the execution. Sevier returned, gathered his remaining followers and besieged Tipton's house for three days. He was, however, repulsed, and his band of devoted followers scattered. Immediately after this event, when the "disasters of the day hung like a pall around him and wounded his ulcerated spirit," some border settlements sent for him to come to their aid against an Indian incursion. The

effect was electrical, and the incident exhibits the character of the man. "In a moment he was himself again," says Ramsey, "elastic, brave, energetic, and daring. At the head of a body of mounted riflemen he was at once upon the frontier to guard and protect its most defenseless points." He was arrested by Tipton upon his return from this expedition, was sent to North Carolina, and was being tried, when his friends appeared in the court room. In the confusion aroused he escaped to the mountains. A full pardon was soon after granted him, and he resumed his place as the leader of his people.

This remarkable man has been harshly criticized on account of the cruelty practised by his soldiers in one of their campaigns against the Indians, and also accused of conspiring with the Spaniards to support his falling commonwealth. Ordinary considerations must not influence our judgment in questions of this kind. Constant warfare with the Indians produced among the backwoodsmen a hatred and prejudice against these savages which incited them to acts of retaliation as inhuman even as those of their barbaric foes. The ethics of the border are not those of the cultured centre. The Indian fighters ended by glorying in deeds repugnant to the standards of christian civilization, and were looked on by the more refined low-country people as little better than the Indians themselves. But they nevertheless had many noble, honest qualities, and must be judged in all their acts with due consideration for the conditions and circumstances with which they were surrounded.

While there is little doubt of the truths as to intrigues with the Spaniards, it cannot be said that they implied any unpatriotic feeling on the part of the settlers of the western country or of Sevier. While he did not represent his people in these intrigues — only a few probably knew of them — yet neither should his own fame be sullied for what he did. His was a patriotism for locality and section. The national idea at that time was dormant and undeveloped, awaiting

the formative influence of a closer Federal union, and even after that had to be slowly evolved through a century's struggle with sectionalism before it could reach its true realization. The settling of the northwest, under the protection of the government, was a great factor in bringing about the happy result we now see, but in point of fact the movement had then only just begun, and there was little homogeneity in this country at the close of the revolution and no national patriotism whatever.

It was perfectly natural, then, that Sevier and Robertson should have asked aid of the Spanish if they thought by that means they could advance the interests of Franklin or Cumberland, to them more important than the greatness of the Federal Government could possibly be. The same spirit actuated New England in its conduct during the war of 1812. Strange as it may seem, all these exciting scenes of partisan contests failed to result in any great civil disorder or bloodshed. The forbearance of all parties in this respect is highly praiseworthy. Ramsey says of this period of our history :

Every review of the conduct of both parties reflects honor upon their patriotism, their moderation, their love of order, and their virtue. Amidst all the rivalry and faction and malcontent, personal and official, which must have arisen from the unexampled condition of things, the annalist has to record but two deaths, almost no bloodshed and little violation of the rights of property.

Sevier, while not sustained in his effort to create a separate State, soon again enjoyed the full confidence of the people and was the recipient of every honor which it was in their power to bestow. He became the first Governor of the State and continuously held that office for twelve years, the constitutional limit at that time. His death occurred while he was on a mission among the Indians in Alabama and until very recently his remains were left unmarked and unhonored.

North Carolina finally in 1790 ceded the western territory to the United States. It was formed into the "Territory southwest of the river Ohio" and William Blount was

appointed Governor. The Cumberland settlements had by this time attained considerable size and importance and were known as the "Mero District." A census was taken in 1796 and the population was found to be 77,000 of whom 10,000 were slaves. Knoxville had grown into the largest town and was then and for some time afterward the seat of government. Congress in this same year passed an act enabling the formation of a State government and a vote was taken in the Territory to decide what should be done. Although the Cumberland settlements were opposed to the measure it was easily carried and a call was issued for a convention to frame a constitution. This body was in session twenty-seven days in Knoxville and in many respects is memorable. Evidence of the extreme simplicity and primitive character of the people of the day is found in the fact that the entire expense of the convention outside of the per diem of the delegates and their mileage was \$10.00 for the benches and \$2.72 for the oilcloth for the president's and secretary's tables.

The first resolution adopted was the following most commendable one: "Resolved, That economy is an amiable trait in any government, and that in fixing the salaries of the officers thereof, the situation and resources of the country should be attended to." Another resolution of the convention which probably had a direct effect on national legislation was that embodied in the 29th section of the Bill of Rights, "That an equal participation of the free navigation of the Mississippi, is one of the inherent rights of the citizens of this State; it cannot therefore be conceded to any prince, potentate, power or person whatsoever." Our present constitution still retains this section.

As to the constitution which the convention adopted, taken as a whole, considerable difference of opinion is expressed. Its provisions as to taxation were notoriously unjust, being almost altogether in favor of the towns and against the rural districts. A great mistake was also made in not establishing a judiciary as one of the co-ordinate

branches of the government as does the federal constitution. Instead of this it was dependent on legislative enactment. Although freedom of worship was guaranteed, a practical religious test was made of those who were to hold office and several other features were adopted from the North Carolina constitution which were antiquated and unsuited to a progressive State. Mr. J. W. Caldwell of Knoxville, in an able essay on our institutional history has this to say of the constitution of 1796:

I think that we may conclude that the truth is that bad as the constitution was in many respects, it was nevertheless, the result of the conscientious efforts of a company of honest and sincerely patriotic men, whose task was extremely difficult and who accomplished it as well as could reasonably have been expected. Mr. Jefferson was a competent judge of such matters; he lived at the time when the constitution was made and was familiar with the constitutions of the several States, and there is every reason to believe that he was right when he said that our constitution was the least imperfect and most republican.

This organic law remained unchanged for more than thirty years, and it is even now the basis of our constitution, much to our sorrow, as the State has long since outgrown it and requires its revision.

We have thus traced the development of the embryonic State from its planting in the rude cabin of William Bean on the banks of the Watauga to its fructification in the strong commonwealth, invested, after many struggles, with sovereignty and admitted into the Union. It is a history of which the present generation may well be proud. A chronicle of the deeds of strong and brave men, full of stirring incidents and possessed of an importance in the wondrous development of the West, for which it has received scant credit.

G. F. MILTON.